

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JESUS MONTES DE OCA GODINEZ,

Plaintiff,

V.

TOM GILES, *et al.*

Defendants.

Case No. C08-5601 RBL/KLS

ORDER DIRECTING SERVICE BY
U.S. MARSHAL

This civil rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). The plaintiff has been granted leave to proceed *in forma pauperis*. Plaintiff has provided service copies and filled out service forms. The clerk is directed to effect service as provided below.

(1) Service by United States Marshal

It is hereby ORDERED that the United States Marshal shall send each named defendant by first class mail, a copy of the Complaint and of this Order, two copies of the Notice of Lawsuit and Request for Waiver of Service of Summons, a Waiver of Service of Summons, and a return envelope, postage prepaid, addressed to the Clerk's Office. Pursuant to Federal Rule of Civil Procedure 4(i), the United States Marshall shall also send each of the aforementioned documents by certified mail to the Attorney General of the United States at Washington, District of Columbia, and to the United States Attorney for the Western District of Washington.

1 All costs of service shall be advanced by the United States. The Clerk shall assemble the
2 necessary documents to effect service. The Clerk also shall send a courtesy copy of the Complaint to
3 both the United States Attorney for the Western District of Washington and Joan K. Mell, Attorney
4 at Law, III Branches Law PLLC, 1033 Regents Blvd., Suite 101, Fircrest, WA 98466.

5 (2) Response Required

6 Defendants shall have **thirty (30) days** within which to return the enclosed Waiver of Service
7 of Summons. Each defendant who timely returns the signed Waiver shall have **sixty (60) days** after
8 the date designated on the Notice of Lawsuit to file and serve an answer or a motion directed to the
9 complaint, as permitted by Rule 12 of the Federal Rules of Civil Procedure.

10 Any defendant who fails to timely return the signed Waiver will be personally served with a
11 summons and complaint, and may be required to pay the full costs of such service, pursuant to Rule
12 4(d)(2). A defendant who has been personally served shall file an answer or motion permitted under
13 Rule 12 within **thirty (30) days** after service.

14 (3) Filing and Service by Parties, Generally

15 All original documents and papers submitted for consideration by the court in this case, are to
16 be filed with the Clerk of this court. The originals of all such papers shall indicate in the upper right-
17 hand corner the name of the Magistrate Judge to whom the copies are to be delivered. The papers
18 shall be accompanied by proof that such documents have been served upon counsel for the opposing
19 party (or upon any party acting *pro se*). The proof shall show the day and manner of service and
20 may be written acknowledgment of service, by certificate of a member of the bar of this court, or by
21 affidavit of the person who served the papers.

22 (4) Motions

23 Any request for court action shall be set forth in a motion, properly filed and served. The
24 motion shall include in its caption (immediately below the title of the motion) a designation of the
25 Friday upon which the motion is to be noted upon the court's calendar. That date shall be the third
26 Friday following filing of the motion (fourth Friday for Motions for Summary Judgment). All briefs
27 and affidavits in opposition to any motion shall be filed and served not later than 4:30 p.m. on the
28

1 Monday immediately preceding the Friday appointed for consideration of the motion. If a party fails
2 to file and serve timely opposition to a motion, the court may deem any opposition to be without
3 merit. The party making the motion may file, not later than 4:30 p.m. on the Friday designated for
4 consideration of the motion, a response to the opposing party's briefs and affidavits.

5 (5) Motions for Summary Judgment

6 If one of the parties files a motion for summary judgment pursuant to Federal Rules of Civil
7 Procedure 56, the opposing party should acquaint him/herself with Rule 56. Rule 56 requires a
8 nonmoving party to submit affidavits or other evidence in opposition to a motion for summary
9 judgment if the moving party has shown the absence of issues of material fact and an entitlement to
10 judgment as a matter of law. A nonmoving party may not rest upon the mere allegations or denials
11 of prior pleadings. Rather, successful opposition to a motion for summary judgment requires the
12 nonmoving party to set forth, through affidavits or other evidence, specific facts showing a genuine
13 issue for trial. Failure by the nonmoving party to oppose a summary judgment motion or to present
14 counter evidence could result in the court accepting the moving party's evidence as the truth, and
15 entering final judgment in favor of the moving party without a full trial. *Rand v. Rowland*, 113 F.3d
16 1520 (9th Cir. 1997).

17 (6) Direct Communications with District Judge or Magistrate Judge

18 No direct communication is to take place with the District Judge or Magistrate Judge with
19 regard to this case. All relevant information and papers are to be directed to the Clerk.

20 (7) Clerk's Action

21 The Clerk is directed to send a copy of this Order and of the General Order issued by the
22 Magistrate Judges to Plaintiff.

23 DATED this 24th day of November 2008.

24
25 
26 Karen L. Strombom
27 United States Magistrate Judge